

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

LANCE YARUS, D.O., :
Plaintiff, :
: CIVIL ACTION
v. : NO. 14-1656
: :
WALGREEN COMPANY et al., :
Defendants. : :

ORDER

AND NOW, this 9th day of October, 2015, upon consideration of Defendants' Motion for Summary Judgment, (Dkt No. 83), and Memorandum of Law in Support thereof, (Dkt No. 83-2), Plaintiff's Response, (Dkt No. 89), and Memorandum of Law in Support thereof, (Dkt No. 89-31), the Court GRANTS IN PART AND DENIES IN PART Defendants' Motion as described in the accompanying Memorandum of Law. The Court dismisses all claims excepting those for defamation and tortious interference of contract relating to the publication of the comments in the prescriber profile made via statements by Defendants' pharmacists to Plaintiff's patients on March 23, 2013 and December 23, 2013. Material disputes of fact remain as to these claims.

FURTHER, this case shall be REFERRED to the Honorable Lynne A. Sitarski, United States Magistrate Judge, for a settlement conference to occur no later than ninety (90) days from the date of this Order. The parties shall file a status update with the Court within seven (7) days from the date of the settlement conference.

FURTHER, should this matter fail to settle, this matter shall be ready to begin trial on April 25, 2016 at 9:30 AM EST. The parties shall comply with the following deadlines in preparation for trial:

1. On or before March 21, 2016, the parties shall file with the Court the following in preparation for trial:
 - a. PRETRIAL MEMORANDUM: Each party shall file a pretrial memorandum setting forth:
 - i. a brief statement of the nature of the case to be presented and the issues to be addressed;

- ii. a list of all witnesses to appear at trial with a brief statement of the nature of each witness's anticipated testimony (witnesses not listed may not be called in a party's case in chief);
- iii. a list of all exhibits to be offered at trial (pre-numbered and pre-exchanged among all counsel);
- iv. a list of stipulations between the parties, and a list of disputed and undisputed facts (counsel shall make a conscientious effort to narrow the factual areas of dispute); and
- v. an estimation as to the time for presentation of each party's case.

b. POINTS FOR CHARGE: After meeting and conferring, the parties shall *jointly submit* proposed points for charge upon which the parties have agreed, and shall individually submit any disputed points for charge accompanied by a reference to the single best authority supporting the disputed point.¹

c. JURY VOIR DIRE AND VERDICT SHEET: After meeting and conferring, the parties shall *jointly submit* (i) proposed jury voir dire questions upon which the parties have agreed (each party shall individually submit proposed jury voir dire questions upon which the parties cannot agree); and (ii) a proposed jury verdict sheet if the parties have agreed upon one (the parties shall individually submit proposed jury verdict sheets if one has not been agreed upon).

- 2. Pre-trial motions shall be filed by March 21, 2016;
- 3. Responses to pre-trial motions shall be filed by April 4, 2016;
- 4. Final pre-trial conference shall be held on April 18, 2016 at 10:00AM EST;
- 5. Jury selection shall commence on April 25, 2016 at 9:30 AM EST.

BY THE COURT:

/s/ C. Darnell Jones, II

C. Darnell Jones, II J.

¹ The parties may file supplemental proposed jury instructions after all the evidence has been presented at trial.